

TOBACCO CONTROL BOARD MEETING MINUTES

NOVEMBER 20, 2003

The Tobacco Control Board met on November 20, 2003, for its monthly meeting in the Main Street Mall building, located at 101 E. Capitol Avenue, Little Rock, Arkansas, beginning at 9:00 a.m. in Conference Room "C". There were 6 - board members present, and 1 - board member absent - Mr. Mark Carter, and 1 - open position.

The Chairman opened the meeting with a "Welcome" to those attending. He presented a Certificate of Appreciation to Mr. Scott Wallace, who served on the Board from July 1, 1998, until September 2, 2003. He introduced Mr. Gene McKissic, who is replacing Ms. Marcia Newton-White. Next he introduced Mr. Charlie Moulton, serving as Hearing Officer, and Ms. Amanda Poe, as Court Reporter.

The Chairman then turned the meeting over to Mr. Moulton, who continued the Disciplinary Hearing segment of the meeting. The following cases were called before the Board:

Mr. Roland Darrow II, attorney for the Board, representing the Sales to Minors cases presented the Default Judgement List as of 11/20/2003.

After review by the members, a motion was made to accept the Default Judgement List dated November 20, 2003, and levy a maximum penalty on all Sales to Minors cases. The motion was approved with 6 - Yes votes, 1 - Member absent, and 1 - Open position.

Mr. Darrow continued with the following:

Case 2004-0173
Permittee: Mr. Salamat Shah

BP Amoco Marion – Marion, AR

VIOLATION: §26-57-248(a) Possession of untaxed product.
Fine \$4,650.00 with \$2,325.00
suspended for a total of \$2,325.00,
Plus destruction of confiscated
product.

The business was represented by Mr. Randy Grice. Attorney.

After hearing all the testimony presented, a motion was made to find the respondent in violation of §26-57-248(a) and levy a fine of \$4,650.00 with \$3,650.00 suspended and destroy the confiscated product. The motion was approved with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

Cases #: 2004-0375
Permittee: Hasan Ali Ayesh

Fast Market – West Memphis, AR

VIOLATION: §26-57-248(a) Possession of untaxed product

After consideration by the Board a motion was made and approved to find the Fast Market in violation of §26-57-248(a), assess a fine of \$250.00, and destroy the confiscated product with 6- Yes votes, 1 – Member absent, and 1 – Open position.

Case # 2004-0463

Jordan's Kwik Stop II, Inc. dba
Jordan's Kwik Stop #3 – Wynne, AR

Permittee: Jackie McClure

VIOLATION: §5-27-227(a)(1) Sale to a Minor, 2nd Offense
Fine: \$200.00 & 1-day
suspension of Permit

The business was represented by Jackie McClure and his brother,
Andy McClure, owners.

After hearing the testimony a motion was made and approved to find
Jordan's Kwik Stop #3 in violation of §5-27-227(a)(1), and issue a fine of
\$200.00 and a 1-day suspension of permit with 6 – Yes votes, 1 –
Member absent, and 1 – Open position.

Case #2004-0562

Permittee: Juan Guevara Barrera

Juan Guevara Barrera dba
La Despensade Don Juan
Clarksville, AR

VIOLATION: §5-27-227(a)(1) Sale to Minor, 1st Offense
Fine: Warning
§26-57-248(a) Possession of untaxed
product. Fine: \$7,600.00 with
\$3,800.00 suspended leaving
a \$3,800.00 fine, and
confiscation of product.

The business was represented by Mr. Juan Barrera, who brought an
interpreter with him since he spoke limited English.

After all testimony was presented, a motion was made and approved to find La Despensade Don Juan in violation of §5-27-227(a)(1) and issue a warning, to find them in violation of §26-57-248(a), assess a \$700.00 fine and destroy the confiscated product with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

The Disciplinary Hearing segment of the meeting was concluded. Mr. Moulton turned the meeting back over to the Chairman.

Mr. Milburn continued the meeting by asking for approval of the October 16, 2003, board meeting minutes. A motion was made and approved to that effect with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

Mr. Charlie Davis, the Director, continued by presenting the “New Retail Permit Report” to the Board. He asked for a blanket approval of the “New Retail Permit Applications issued from October 16, 2003, through November 19, 2003”. A motion was made and approved to approve the permits as listed with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

Next Mr. Davis reviewed and asked for a blanket approval of the “Notice of Hearing and Offers of Settlement accepted by the permittee from October 16, 2003, through November 19, 2003”. A motion was made and approved to approve the “Notice of Hearing and Offers of Settlement accepted by the Permittee from October 16, 2003, through November 19, 2003” with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

After discussion concerning an approved motion at the October 16, 2003, board meeting, a motion was made and approved to amend the previous order issued by the Board at the October 16, 2003, meeting for Blackard Oil Company and reduce the fine to \$400.00 and a 2-day suspension of permit with 5 – Yes votes, 1 – Abstention, 1 – Member absent, and 1 – Open position.

The Director then “Addressed the Board”. He reviewed the October 2003 Complaints Reports. He updated the Board on the activity of the enforcement agents.

He announced that Greg Sled, the Enforcement Agent Supervisor, and his wife are expecting a baby in late May.

The agency office would be closed on Thursday, November 27 and Friday, the 28th for the Thanksgiving holiday.

The Chairman called on Mr. Arnie Jochums, Board Attorney, to bring the Board up to date on any court activity.

After the update and Board discussion a motion was made and approved to authorize Mr. Jochums to appeal the Court decision on Santa Fe Natural Tobacco VS the Arkansas Tobacco Control Board with 6 – Yes votes, 1 – Member absent, and 1 – Open position.

The Chairman then opened the meeting for “Board Member Discussion” followed by “Comments from the Audience”.

Announcements included the next meeting date of December 18, 2003.

All business of the Board had been conducted and the meeting was adjourned.

Minutes prepared by _____
Janis L. Campbell

December 2, 2003